

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 18-20141-cr-MOORE/SIMONTON**

UNITED STATES OF AMERICA

v.

**JUAN CARLOS RODRIGUEZ,
a/k/a “El Doctor,”**

Defendant.

_____ /

FACTUAL PROFFER

The United States Attorney’s Office for the Southern District of Florida (“this Office”) and Juan Carlos RODRIGUEZ, a/k/a “El Doctor,” (hereinafter referred to as the “defendant”) agree and represent that, if this matter were to proceed to trial, the United States would prove the following facts beyond a reasonable doubt:

1. Title 50, Code of Federal Regulations, Section 10.13 lists species of migratory birds in alphabetical order. The list includes Puerto Rican Spindalises (*Spindalis portoricensis*), Northern Cardinals (*Cardinalis cardinalis*), Puerto Rican Bullfinches (*Loxia portoricensis*), Yellow-faced Grassquits (*Tiaris olivaceus*), Blue Jays (*Cyanocitta cristata*), Blue Grosbeaks (*Passerina caerulea*), Indigo Buntings (*Passerina cyanea*), Cooper’s Hawks (*Accipiter cooperii*), Bobolinks (*Dolichonyx oryzivorus*), Red-shouldered Hawks (*Buteo lineatus*), Gray Catbirds (*Dumetella carolinensis*), Painted Buntings (*Passerina ciris*), Summer Tanagers (*Piranga rubra*), some species of Screech-owls (*genus Megascops*), and Sharp-shinned Hawks (*Accipiter striatus*).

2. On May 28, 2014, an undercover special agent (hereinafter referred to as a “U/C”) visited a website where individuals advertise migratory birds for sale. The U/C observed an advertisement offering the sale of migratory bird posted by someone calling himself “El Doctor.”

The U/C called the phone number associated with the advertisement, spoke to “El Doctor,” and arranged for the purchase of Spindalises at the residence of “El Doctor.” Later that day, the U/C went to the residence and met “El Doctor,” who proved to be RODRIGUEZ. In a recorded encounter, the U/C purchased a Puerto Rican Spindalis (*Spindalis portoricensis*) from RODRIGUEZ. During the sale, RODRIGUEZ stated that he had sold 60 Northern Cardinals (*Cardinalis cardinalis*) to a buyer in California the previous week.

TRAPS

3. The U/C returned to the residence of RODRIGUEZ on multiple occasions to purchase migratory birds. On many of these occasions, the U/C observed bird traps deployed with bait birds and birdseed. Bird traps are commonly constructed of wood or light wire and consist of multiple pitfall doors baited with seed and typically utilize a “bait bird” to lure wild birds into the trap. The bait bird itself is typically a previously captured wild migratory bird of whatever species is being targeted; however, bird traps catch birds indiscriminately. Once in the trap, the captured bird cannot escape.

4. On June 6, 2014, RODRIGUEZ stated that he has used traps to catch Blue Grosbeaks (*Passerina caerulea*), Rose-breasted Grosbeaks (*Pheucticus ludovicianus*), Indigo Buntings (*Passerina Cyanea*), Painted Buntings (*Passerina ciris*), Northern Cardinals (*Cardinalis cardinalis*), and Blue Jays (*Cyanocitta cristata*). The U/C observed two trapped Northern Cardinals (*Cardinalis cardinalis*) in the cages that day. RODRIGUEZ asked whether the U/C was interested in Northern Cardinals (*Cardinalis cardinalis*), and when the U/C responded in the affirmative, RODRIGUEZ stated that he would deploy more traps and call.

5. On another occasion (November 12, 2015), RODRIGUEZ stated to the U/C that he deploys bird trapping cages on eight to ten different farms.

MIST NETS

6. During several undercover purchases of migratory birds at RODRIGUEZ's residence, the U/C observed "mist nets" and mist net poles. On July 16, 2014, RODRIGUEZ showed the U/C twelve mist nets ready for the migration season that he stated constituted a combined total of 1,200 feet of netting. On August 20, 2014, the U/C purchased three mist nets and pole sets from RODRIGUEZ. On August 30, 2016, RODRIGUEZ showed the U/C three mist nets mounted to mist net poles that he claimed were ready for deployment. On September 9, 2016, the U/C again observed a mist net mounted on a set of poles at RODRIGUEZ's residence. On September 14, 2016, the U/C observed mist net poles protruding from the backseat of RODRIGUEZ's truck. On March 20, 2018, RODRIGUEZ again showed the U/C three mist nets on set poles ready for deployment.

7. Mist nets are soft, pliable nets that trap birds and are used for scientific research. Current scientific literature suggests that appropriate use of mist nets does not harm birds. Appropriate usage involves monitoring the nets and removing entangled birds quickly and carefully after they become entangled.

8. On July 16, 2014, RODRIGUEZ described his usage of mist nets. RODRIGUEZ stated he goes to sugar cane fields and sunflower fields and sets up a net across the entire field. He then drives the birds into a net using a truck. He stated that the year before, he and two other individuals went to a field and captured 203 Indigo Buntings (*Passerina Cyanea*), countless Painted Buntings (*Passerina ciris*), and other birds in their nets. He stated that they stuffed the birds into feedbags like sardines in a can and drove them to RODRIGUEZ's house. He stated that many birds were lost to wild dogs and cats before they could remove the birds from their mist nets. He stated that there were so many birds that he divvied them up among all three trappers.

PEGA

9. During other recorded conversations, RODRIGUEZ stated that he uses another trapping technique known as “*pega*,” which is the Spanish translation for “stick-um” to trap Bobolinks (*Dolichonyx oryzivorus*). *Pega* is an adhesive coating that trappers apply to sticks or bare branches, known as “limesticks,” and deploy in bird perching areas. When a bird lands on the limestick, the *pega* traps the bird by adhering its feet to the stick. Any part of the bird that touches the *pega* will adhere to the limestick. *Pega* indiscriminately traps birds and can cause their death or injury. RODRIGUEZ stated that he uses WD-40 to extricate Bobolinks (*Dolichonyx oryzivorus*) from limesticks coated with *pega*.

10. RODRIGUEZ had Bobolinks (*Dolichonyx oryzivorus*) for sale. On September 9, 2016, the U/C purchased two Bobolinks (*Dolichonyx oryzivorus*) from RODRIGUEZ during a recorded undercover encounter at his residence.

PUERTO RICO

11. During other recorded conversations, RODRIGUEZ discussed selling and bartering migratory birds to and with buyers in Puerto Rico. RODRIGUEZ stated that he has done business with associates in Puerto Rico for over ten years and had sold 250 Northern Cardinals (*Cardinalis cardinalis*) to buyers there.

12. On October 19, 2016, RODRIGUEZ received three cardboard boxes of live birds from a shipper in Puerto Rico

13. On October 20, 2016, in exchange, RODRIGUEZ shipped him three Gray Catbirds (*Dumetella carolinensis*), six Painted Buntings (*Passerina ciris*), and three Northern Cardinals (*Cardinalis cardinalis*).

KNOWLEDGE OF ILLEGALITY

14. RODRIGUEZ made several statements demonstrating his awareness that trapping and trafficking migratory birds is illegal. During a recorded purchase of migratory birds from RODRIGUEZ, RODRIGUEZ stated that he was selling all of his birds and equipment because he was in the process of a divorce from his wife and did not want her to be able to exert leverage over him by informing law enforcement of his bird trafficking. During another recorded encounter, RODRIGUEZ stated that trapping an owl could cost someone “5,000 years” of incarceration. He later sold the U/C a Screech-Owl (*genus Megascops*). During another recorded encounter, RODRIGUEZ stated that mist nets are illegal and that, when he uses them, he has to watch out for “Fish and Wildlife.” During another recorded encounter, RODRIGUEZ stated that when he went trapping, he loaded the nets and bird traps into the back of his truck and covered the equipment with a drape to avoid detection. Additionally, RODRIGUEZ used a fake name for the shipments to and from Puerto Rico.

MIGRATORY BIRDS PURCHASED FROM RODRIGUEZ

15. In total, the U/C purchased the following approximate numbers of migratory birds from RODRIGUEZ during eighteen separate recorded encounters:

- a. 5 Puerto Rican Spindalises (*Spindalis portoricensis*);
- b. 156 Northern Cardinals (*Cardinalis cardinalis*);
- c. 2 Puerto Rican Bullfinches (*Loxigilla portoricensis*);
- d. 3 Indigo Buntings (*Passerina cyanea*);
- e. 7 Cooper’s Hawks (*Accipiter cooperii*);
- f. 2 Bobolinks (*Dolichonyx oryzivorus*);
- g. 3 Red-shouldered Hawks (*Buteo lineatus*);
- h. 1 Summer Tanager (*Piranga rubra*);
- i. 1 Screech-Owl (*genus Megascops*); and
- j. 1 Sharp-shinned Hawk (*Accipiter striatus*).

The U/C spent approximately \$10,715 on these undercover purchases.

16. In particular, on November 9, 2016, the U/C purchased 29 Northern Cardinals (*Cardinalis cardinalis*), 1 Puerto Rican Spindalis (*Spindalis portoricensis*), 1 Summer Tanager (*Piranga rubra*), 2 Cooper's Hawks (*Accipiter cooperii*), one Red-shouldered Hawk (*Buteo lineatus*), and one Screech-Owl (*genus Megascops*).

17. On November 14, 2016, the U/C purchased 1 Sharp-shinned Hawk *Accipiter striatus*).

18. RODRIGUEZ stored many other migratory birds for sale and barter in cages behind his residence. RODRIGUEZ offered the U/C many other migratory birds for sale during the course of the recorded undercover meetings and phone calls.

19. Three of the Cooper's Hawks (*Accipiter cooperii*) and two of the Red-shouldered Hawks (*Buteo lineatus*) were dead at the time of purchase.

20. Some of the purchased migratory birds were in poor health, showed signs of distress, or died shortly after purchase.

BENJAMIN G. GREENBERG
UNITED STATES ATTORNEY

Date: 5/11/18

By:


JAMIE A. RAICH
ASSISTANT UNITED STATES ATTORNEY

Date: 5/15/18

By:


KATIE CARMON, APFD
ATTORNEY FOR DEFENDANT

Date: 5/16/18

By:


JUAN CARLOS RODRIGUEZ
DEFENDANT